

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, OCTOBER 11, 2004  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 2:14 p.m. Mayor Murphy recessed the meeting at 2:54 p.m. to convene the Redevelopment Agency. The regular meeting was reconvened by Mayor Murphy at 2:55 p.m. with Council Member Inzunza not present and District 4 vacant. Mayor Murphy recessed the meeting at 3:14 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 3:23 p.m. with Council Member Inzunza not present and District 4 vacant. Mayor Murphy adjourned the meeting at 3:55 p.m. immediately into Closed Session, in the twelfth floor conference room to discuss existing and anticipated litigation.

**ATTENDANCE DURING THE MEETING:**

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council District 4-vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-not present
- Clerk-Abdelnour (pr)

**FILE LOCATION:                      MINUTES**

**ITEM-1:                      ROLL CALL**

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present

- (3) Council Member Atkins-present
- (4) Council District 4-vacant
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-not present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by City Clerk Charles G. Abdelnour.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschein.

FILE LOCATION: MINUTES

ITEM-30: Arts and Humanities Month.

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-340) ADOPTED AS RESOLUTION R-299736

Recognizing the importance of the arts and humanities, and urging our citizens to take part in the efforts to celebrate and promote the arts and culture in our community and our nation;

Proclaiming October 2004 to be “Arts and Humanities Month” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:23 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-31: Charles W. Johnson Sr., Day.

**COUNCILMEMBER FRYE’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-347) ADOPTED AS RESOLUTION R-299737

Commending Charles for his continued dedication to improving the quality of life for the residents of the Linda Vista Community;

Proclaiming October 11, 2004, to be “Charles W. Johnson Sr., Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:23 p.m. – 2:29 p.m.)

MOTION BY FRYE TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-32: Approval of Council Minutes.

**TODAY'S ACTION IS:** APPROVED

Approval of Council Minutes for the meetings of:

09/20/2004

09/21/2004

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:17 p.m. – 2:17 p.m.)

MOTION BY ATKINS TO APPROVE. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

CLOSED SESSION ITEMS.

**CS-1 *De Anza Cove Homeowners Association, Inc. v. City of San Diego*  
San Diego Superior Court Case No. GIC 821191**

**REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 11, 2004**

DCA assigned: Gleeson

This matter concerns the litigation filed by the De Anza Cove Homeowners Association against the City of San Diego seeking damages related to expiration of the prior lease and transition of the property from use as a mobile home park to park and recreational use. In closed session, the City's outside litigation counsel and the City Attorney will report on the status of the litigation, and other matters affecting the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:54 p.m. – 2:55 p.m.)

**Mayor Murphy closed the Hearing**



**CS-2 *La Jolla United Methodist Church v. City of San Diego*  
San Diego Superior Court No. GIC 836532**

DCA assigned: Gleeson

**REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 11, 2004**

This matter concerns a dispute between the City and the La Jolla Methodist Church regarding property rights in the formerly planned extension of Fay Avenue. In closed session the City Attorney will advise the City Council on the status of the dispute and seek further direction concerning the matter.

FILE LOCATION: AGENDA  
COUNCIL ACTION: (Time duration: 2:54 p.m. – 2:55 p.m.)

**Mayor Murphy closed the Hearing**

**CS-3 *Conde v. City of San Diego et al*  
San Diego Superior Court No. GIC 834467.**

**REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 11, 2004**

HDCA assigned: Girard

This matter is litigation concerning the District 4 vacancy and the application of term limits to former City Council Member George Stevens. In closed session the City Attorney will brief the City Council on the recent ruling in the case and discuss the City's options.

FILE LOCATION: AGENDA  
COUNCIL ACTION: (Time duration: 2:54 p.m. – 2:55 p.m.)

**Mayor Murphy closed the Hearing**

**CS-4** *Border Business Park v. City of San Diego*  
Appellate Case No. D039225; SDSC Case No. GIC 692794  
*Otay Acquisitions v. City of San Diego*  
SDSC Case No. GIC 753247  
*National Enterprises, Inc. v. City of San Diego*  
SDSC Case Nos. GIC 791407; GIC 805465

**REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 11, 2004**

ACA assigned: Girard

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The Border Business Park case resulted in a jury verdict against the City, which is now on appeal. The National Enterprises and Otay Acquisitions cases are currently awaiting trial in the Superior Court. In closed session the City Attorney will report on the status appeal.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:54 p.m. – 2:55 p.m.)

**Mayor Murphy closed the Hearing**

**Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c)**

**CS-5** *Hazard Center Drive*

**REFERRED TO CLOSED SESSION ON MONDAY, OCTOBER 11, 2004**

DCA assigned: Lanzafame

In Closed Session, the City Manager and City Attorney will advise the City Council on the status of the dispute and the legal options available to attempt to resolve it.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:54 p.m. – 2:55 p.m.)

**Mayor Murphy closed the Hearing**

ITEM-50: Amending the San Diego Municipal Code Section 56.54 Clarifying the Definition of “Public Park,” Renaming Five Parks in the University City, Scripps Ranch and Mira Mesa Communities; and Deleting Four Locations in the La Jolla, Pacific Beach, Clairemont and Mid-City Eastern Area Communities.

(Pacific Beach, La Jolla, University City, Mira Mesa, Scripps Ranch, Clairemont, and Mid-City Eastern Area Community Areas. Districts-1, 2, 5, 6, and 7.)

**CITY MANAGER’S RECOMMENDATION:**

Introduce the following ordinance:

(O-2005-31) INTRODUCED, TO BE ADOPTED ON MONDAY,  
NOVEMBER 8, 2004

Introduction of an Ordinance amending Chapter 5, Article 6, Division 0, of the San Diego Municipal Code by amending Section 56.54, relating to alcoholic beverage consumption prohibited in certain areas.

**CITY MANAGER’S SUPPORTING INFORMATION:**

This action will amend Municipal Code Section 56.54 (a) clarifying the definition of “Public Park,” and will amend Municipal Code Section 56.54 (b) clarifying the proper park name, land ownership and law enforcement jurisdiction regarding five (5) neighborhood parks that are immediately adjacent to five (5) San Diego Unified School District elementary schools and one (1) middle school. Also, four locations will be deleted because there is no City-owned property in these areas. This modifications will clarify, with respect to law enforcement efforts, the jurisdictional boundaries as they relate to City park property.

Modifications are as follows:

- Crown Point Elementary School/Park should be deleted
- Decatur Elementary School/Park should be deleted
- Doyle Elementary School/Park should be: Doyle Community Park
- Erickson Elementary School/Park should be: Mesa Viking Neighborhood Park
- Jerabek Elementary School/Park should be: Jerabek Neighborhood Park
- Mann Middle School/Park should be deleted
- Marston Middle School/Park should be deleted
- Mason Elementary School/Park should be: Mesa Verde Neighborhood Park

- Wagenheim Middle School/Park and Walker Elementary School/Park should be: Walker Neighborhood Park (Walker Neighborhood Park is located between Wagenheim Middle School and Walker Elementary School.)

The request to amend the three parks in the Mira Mesa Community is in response to a recommendation from the Mira Mesa Recreation Council who voted unanimously to support the above modifications to further clarify the respective designations thus assisting law enforcement efforts in enforcing this code section. The additional amendments are a result of an effort to clarify that this Municipal Code section applies only to City-owned parks and clarify the parks that are included in this section.

Herring/Oppenheim/TM

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:43 p.m. – 3:45 p.m.)

MOTION BY FRYE TO INTRODUCE. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-100: Two actions related to Mission Bay Boat Launching Facilities Upgrade Project.

(Mission Bay Park Community Area. District-2.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2005-334) ADOPTED AS RESOLUTION R-299738

Authorizing the City Manager to award the Project contract to Reyes Construction, Inc., in an amount not to exceed \$3,322,000, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager, or his representative, to apply to the State of California (SOC) for the Grant in the amount of \$245,437 in Roberti-Z'berg-Harris Per Capita funds under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002;

Authorizing the City Manager, or his representative, to take all necessary actions to secure the Grant and to negotiate and execute all agreements necessary to comply with the SOC's grant requirements;

Authorizing the City Manager to accept the Grant if it is secured;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing fund for the Grant;

Authorizing the City Auditor and Comptroller to transfer \$160,000 from CIP-22-948.0, Santa Clara Recreation Center, to CIP-22-953.0, Mission Bay Boat Launching Facilities Upgrade, Fund No. 38103, for the Project;

Authorizing the City Auditor and Comptroller to increase by \$50,000 the Fiscal Year 2005 Capital Improvement Program Budget, CIP-22-953.0, Mission Bay Boat Launching Facilities Upgrade, Fund No. 10507, Sludge Mitigation Fund, for the Project;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$50,000 from CIP-22-953.0, Mission Bay Boat Launching Facilities Upgrade, Fund No. 10507, Sludge Mitigation Fund, for the Project;

Authorizing the City Auditor and Comptroller to transfer \$300,000 from CIP-22-958.0, Mission Bay-Fiesta Island Access Road, Fund No. 10507, Sludge Mitigation Fund, to CIP-22-953.0, Mission Bay Boat Launching Facilities Upgrade, Fund No. 10507, Sludge Mitigation Fund, for the Project;

Authorizing, upon receipt of a fully executed grant agreement, a \$245,437 increase in the Fiscal Year 2005 Capital Improvements Program Budget in CIP-22-953.0, Mission Bay Boat Launching Facilities Upgrade, 2002 Resources Bond Per Capita funding;

Authorizing the City Auditor and Comptroller to appropriate and expend \$245,437 from CIP-22-953.0, Mission Bay Boat Launching Facilities Upgrade, 2002 Resources Bond per Capita funding, for the Project, contingent upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

Subitem-B: (R-2005-336) ADOPTED AS RESOLUTION R-299739

Declaring that the information contained in the final Addendum to a Negative Declaration LDR No. 40-0165 document, including any comments received during the public review process, has been reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of Mission Bay Boat Launching Facilities Upgrade Project;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

**CITY MANAGER SUPPORTING INFORMATION:**

The Mission Bay Boat Launching Facilities Upgrade project consists of three sites:

- 1- Dana Basin: will include parking lot improvements, parking lot lighting, demolition of the existing comfort station and construction of a new comfort station that complies with ADA requirements, replacement of the existing boat dock with a new boat dock and access ramp that complies with ADA requirements, and installation of signage in accordance with Mission Bay Master Plan requirements.
- 2- Santa Clara: will include parking lot improvements, parking lot lighting, replacement of the existing boat dock with a new boat dock and access ramp that complies with ADA requirements, and construction of a concrete curb on the existing boat launching ramp.
- 3- Ski Beach: will include demolition of the existing comfort station and construction of a new comfort station that complies with ADA requirements, and installation of signage in accordance with Mission Bay Master Plan requirements.

The project was advertised and Reyes Construction, Inc. has been recognized as the apparent low bidder. The low bidder's estimate is approximately 28% higher than what is available in funding. Additional funds in the amount of \$755,437 are needed in order to award construction of the project.

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 (bond). Based upon State Department of Finance population figures as of January 1, 2002, the City of San Diego will receive a total of \$11,063,430 on a Per Capita basis from the bond. On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the Per Capita/RZH Per Capita funds to each council district, with a portion of the funding set aside for projects with citywide and regional impact.

This action approves allocation of \$245,437 from the Council District 2 portion of the 2002 Resources Bond Roberti-Z'berg-Harris Per Capita funding to the Mission Bay Boat Launching Facilities Upgrade project, CIP-22-953.0.

**FISCAL IMPACT:**

The total project cost is estimated to be \$4,187,421. Original Funds are available in Mission Bay Boat Launching Facilities/Project, CIP-22-953.0, Fund No. 30244. The original improvements in this project are funded by a grant from the California Department of Boating and Waterways in the amount of \$3,044,000, and City funds in the amount of \$330,000. Transient Occupancy Tax funds in the amount of \$57,984 were also transferred to this project by the Fiscal Year 2005 Budget Appropriation Ordinance No. 19301. Additional funds, in the amount of \$755,437, are available from the following sources: CIP-22-948.0, Santa Clara Recreation Center, Fund No. 38103, (\$160,000); CIP-22-958.0, Mission Bay-Fiesta Island Access Road, Fund No. 10507, Sludge Mitigation Fund (\$300,000); Fund No. 10507, Sludge Mitigation Fund (\$50,000) and 2002 Resources Bond per Capita (\$245,437). It is anticipated that this transfer of funding will not significantly impact the schedule of development of the Santa Clara Recreation Center.

Herring/Oppenheim/AP

Aud. Cert. 2500300.

FILE LOCATION: SUBITEMS A & B: CONT-Reyes Construction, Inc.  
W. O. 229530

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-101: Two actions related to Scripps Ranch Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2005.

(See City Manager Report CMR-04-207; Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2005 Draft. Scripps Miramar Ranch Community Area. District-5.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2004-369) ADOPTED AS RESOLUTION R-299740

Approving the document entitled "Scripps Miramar Ranch Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2005."

Subitem-B: (R-2004-370) ADOPTED AS RESOLUTION R-299741

Resolution of Intention to designate an area of benefit in Scripps Miramar Ranch and setting the time and place for holding a public hearing thereon.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 9/29/2004, LU&H voted 4-0 to approve the City Manager's recommendation. (Councilmembers Peters, Zucchet, Frye, and Inzunza voted yea. District 4-vacant.)

FILE LOCATION: SUBITEMS A & B: STRT-FB11 (33)

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-102: Inviting Bids for the Construction of Dakota Canyon Accelerated Sewer Replacement and Rehabilitation Project.

(See memorandum from Scott Tulloch dated 6/2/2004. Clairemont Mesa Community Area. District-6.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-357) RETURNED TO THE CITY MANAGER

Approving the plans and specifications for CIP-46-611.0, Dakota Canyon Accelerated Sewer Replacement and Rehabilitation Project (the Project) on Work Order No. 178021;

Authorizing the City Manager, after advertising for bids in accordance with law, to award a contract to, and execute a contract with, the lowest responsible and



reliable bidder for the Project in an amount not to exceed \$1,022,490, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$1,211,490 from CIP-46-206.0 Annual Allocation – Accelerated Projects, Fund 41506 solely and exclusively for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$120,000 from CIP-46-206.0 Annual Allocation - Accelerated Projects, Fund 41506 solely and exclusively for the purpose of providing funds for the Project related easement acquisition, appraisal, title, escrow, city staff labor charges, and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

**NATURAL RESOURCES AND CULTURE COMMITTEE’S RECOMMENDATION:**

On 6/9/2004, NR&C voted 5 to 0 to have the project reviewed by the Sewer Canyon Task Force before the item is heard before the City Council. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

**SUPPORTING INFORMATION:**

This project is a part of the City of San Diego's ongoing program to rehabilitate, upgrade and/or relocate sewers located in canyons. This sewer is located in a stream bed in Dakota Canyon, and due to its location, it is difficult to access for maintenance. Due to severe erosion, the pipe has been exposed, and emergency repairs have been completed by City crews. The redirection of flow study and cost benefit analysis completed for this project concluded that it is not feasible to remove the pipe from the canyon. This project will solve the erosion problem by relocating the pipe out of the stream bed and placing it in a new alignment higher up the slope. It will also solve the maintenance access problem by building an 8-foot access path for maintenance purposes. Construction on this project will consist of installing approximately 695 linear feet of new 8-inch sewer main, rehabilitating 520 linear feet of existing 8-inch sewer main, and

abandoning 1,310 linear feet of existing 51 year old 8-inch sewer main. Any existing exposed pipe will be removed. In addition, this work will require the acquisition of new easements for both the sewer and the access path. This action also requests authorization of funds to acquire the property rights for such easements necessary for completion of the project. The Natural Resources and Culture Committee voted 5-0 on June 9, 2004, to have the project reviewed by the Sewer Canyon Task Force before the item is heard by the City Council. However, this committee no longer exists. Instead, the Open Space Canyon Advisory Committee was notified about this project, but this committee does not review individual projects. The project was then presented to the Clairemont Mesa Community Planning Group on June 20, 2004, and was approved.

**FISCAL IMPACT:**

The total of this request is \$1,331,490 of which \$1,022,490 is for construction, \$51,000 is for contingencies, \$130,000 is for related costs, \$8,000 is for City Force work, and \$120,000 is for property acquisition. Funds are available in Sewer Fund No. 41506, CIP-46-206.0, Annual Allocation - Accelerated Projects.

Mendes/Tulloch/AN

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO RETURN THIS ITEM TO THE CITY MANAGER FOR FURTHER REVIEW. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-103: Settlement of Bodily Injury for Sandra Niesen.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-325) ADOPTED AS RESOLUTION R-299742

A Resolution approved by the City Council in Closed Session on Tuesday, September 14, 2004, by the following vote: Peters-yea; Zucchet-yea; Atkins-absent; District 4-vacant; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-absent; Mayor-yea;

Authorizing the City Manager to pay the sum of \$95,000 in the settlement of each and every claim against the City of San Diego, its agents and employees, in Superior Court Case No. GIC 824038, Sandra Niesen v. City of San Diego, et. al., arising from the personal injury damage claim of Sandra Niesen;

Authorizing the City Auditor and Comptroller to issue a check in the sum of \$95,000 made payable to Sandra Niesen and her attorney Nancy Sussman, in full settlement of the lawsuit and of all claims;

Declaring that said funds are to be payable from Fund No. 81140.

**CITY MANAGER SUPPORTING INFORMATION:**

This constitutes the complete and final settlement of the bodily injury claim of Sandra Niesen against the City of San Diego, its agents, and employees, as a result of a slip and fall incident that occurred on the Ocean Beach pier on August 17, 2003.

This settlement has been reviewed by the City Council in closed session.

Lexin/Lopez/JE

Aud. Cert. 2500309.

**NOTE:** The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-104: Reallocation of Funding for Engineering Services by Brown and Caldwell.

(See memorandum from Scott Tulloch dated 9/20/2004.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-253)                      ADOPTED AS RESOLUTION R-299743

Authorizing the expenditure of an amount not to exceed \$75,000 from the Storm Water Pollution Prevention Division Fund No. 100, solely and exclusively for engineering services by Brown & Caldwell in connection with storm water pollution prevention, under the current contract;

Authorizing the reduction in expenditure of \$75,000 to a revised amount not to exceed \$4,925,000 from Sewer Fund Nos. 41506, 41508, and 41509, solely and exclusively to provide funds for ongoing services to be performed by Brown & Caldwell for the Metropolitan Wastewater Department.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 9/22/2004, NR&C voted 4 to 0 to approve the City Manager's recommendations. (Councilmembers Zucchet, Frye, Madaffer, and Inzunza voted yea. Council District 4-vacant.)

**SUPPORTING INFORMATION:**

On February 25, 2002, the City Council approved the Agreement with Brown & Caldwell for "Professional Engineering Services 2002-2005," via Resolution R-296103 (attached). The Agreement provides professional engineering services for existing Metropolitan Wastewater Department (MWWD) facilities such as design studies and design improvements to collection systems, pump stations, and treatment plant operations. The contract is valued at \$5,000,000 and is funded from MWWD Funds 41506, 41508, and 41509.

On April 22, 2004, P. Lamont Ewell, City Manager, issued a memorandum outlining a number of organizational changes. As a result of this directive, the Storm Water Pollution Prevention Division (SWPPD) was transferred to MWWD. In order for MWWD to support SWPPD's design engineering requirements under the Brown & Caldwell Agreement, SWPPD Fund 100 must be added to the approved funding sources for the Agreement. The services provided to SWPPD shall not exceed \$75,000. This action will not increase the total Brown & Caldwell Agreement value, because Sewer Fund expenditures will be reduced by \$75,000. The contract remains unchanged.

Work will be authorized on a task order basis. It has a duration of three years and has a value of \$5,000,000.

MBE/WBE Utilization:

In keeping with City's policy to voluntarily provide subcontracting opportunities to all interested and qualified firms, including minorities and women, Brown and Caldwell has retained the

following subconsultants as members of their engineering consultant team in connection with this project:

Certified Subconsultants:

MBE-Simon Wong Engineering

MBE-Estrada Land Planning

MBE-Ninyo & Moore

MBE-Lindvedt-McColl Surveying

MBE-Roesling Nakamura

MBE-Trans Consulting Engineers

Other Subconsultants:

DeC Corrosion Consultants

Due to the nature of this contract, the percentage utilization of MBE/WBE sub consultants is dependent upon the tasks authorized by the City and the type of work required by those tasks.

**FISCAL IMPACT:**

The total authorized, \$5,000,000, is funded from Funds 41506, 41508, 41509, and 100.

Ewell/Tulloch/WDP

Aud. Cert. 2500235.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-105: Funding for the Pershing Middle School Joint Use Facility.

(Navajo Community Area. District-7.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-320) ADOPTED AS RESOLUTION R-299744

Accepting and thanking San Diego County Water Authority for their contribution of \$20,746 in rebate funds for the Project;

Authorizing the City Auditor and Comptroller to increase by \$20,746 the Fiscal Year 2005 Capital Improvements Program Budget in CIP-29-531.0, Phase 1-Pershing Middle School Joint Use Facility, Fund No. 63022, Private and Other Contributions-CIP, for the Project;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$20,746 from CIP-29-531.0, Pershing Middle School Joint Use Facility, Fund No. 63022, Private and Other Contributions-CIP, for the Project;

Authorizing the City Auditor and Comptroller to transfer \$11,000 from CIP-29-561.0, San Carlos Play Area Upgrade, Fund No. 11360, Park Service District Fee, to CIP-29-531.0, Phase 1-Pershing Middle School Joint Use Facility, Fund No. 11360, Park Service District Fees, for the Project;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$11,000 from CIP-29-531.0, Pershing Middle School Joint Use Facility, Fund No. 11360, Park Service District Fee, for the Project;

Authorizing the City Auditor and Comptroller to transfer \$16,000 from CIP-29-561.0, San Carlos Play Area Upgrade, Fund No. 14000, Building Permit Fee, to CIP-29-531.0, Phase 1-Pershing Middle School Joint Use Facility, Fund No. 14000, Building Permit Fee, for the Project;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$16,000 from CIP-29-531.0, Pershing Middle School Joint Use Facility, Fund No. 14000, Building Permit Fee, for the Project.

**CITY MANAGER SUPPORTING INFORMATION:**

This project lies in the Navajo Community Planning Area at Navajo Road and Boulder Lake Avenue. In 2001, the City entered into a Joint Use Agreement with the San Diego Unified School District (SDUSD) for the development of approximately 10 acres of sports fields, multipurpose courts and comfort station. Due to funding constraints, this project was divided into phases. The first phase provides for 4.92 acres of artificial turf. The City has also been working jointly with the Pershing Middle School Foundation (PMSF) for the development of this facility. The project cost of Phase 1 is \$1,556,738. A donation of materials and labor from Superior

Ready Mix, Koch Armstrong and Forever Green Athletic Fields (\$500,075), helped to make this project possible. The SDUSD contributed \$180,000. The remaining funding for completion of Phase 1 was provided via Navajo Developer Impact Fees (\$345,000), Park and Recreation Matching Funds (\$116,663), Fiscal Year 2001 Park Bonds (\$335,000) and Capital Outlay (\$80,000).

This request increases the CIP Budget for Pershing Middle School Joint Use Facility to provide for an accessible path of travel to the newly constructed playing fields. Partial funding is via a grant from the County Water Authority water conservation incentive program (\$20,746). This request also includes a transfer of funds from the San Carlos Play Area Upgrade Project (\$27,000), which was completed under budget.

**FISCAL IMPACT:**

Funding for these improvements is available in the above referenced funds. The estimated annual maintenance cost pursuant to the Joint Use Agreement is approximately \$32,446. Funding for maintenance of this new facility was programmed in the current Fiscal Year.

Herring/Oppenheim/AP

Aud. Cert. 2500306.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-106: Balboa Park Aerospace Museum Transfer of Funds.

(Mission Bay Park and Balboa Park Community Areas. Districts-2 and 3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-337) ADOPTED AS RESOLUTION R-299745

Authorizing a decrease of \$85,000 in the Fiscal Year 2005 Capital Improvements Program Budget in CIP-22-950.0, North Crown Point Storm Drain, in Fund No. 30300, Transnet Cash;

Authorizing the City Auditor and Comptroller to transfer funds in the amount of \$85,000 from CIP-22-950.0, North Crown Point Storm Drain, to CIP-21-866.0, Balboa Drive Storm Drain, in Fund No. 30300, Transnet Cash;

Authorizing the City Auditor and Comptroller to transfer funds in the amount of \$85,000 from CIP-21-866.0, Balboa Drive Storm Drain, to CIP-21-862.0, Balboa Park Aerospace Museum – Roof Replacement, in Fund No. 60253, Inspiration Point Landscape Fund;

Authorizing an \$85,000 increase in the Fiscal Year 2005 Capital Improvements Program Budget in CIP-21-862.0, Balboa Park Aerospace Museum – Roof Replacement, in Fund No. 60253, Inspiration Point Landscape Fund.

**CITY MANAGER SUPPORTING INFORMATION:**

The San Diego Aerospace Museum, which was constructed in preparation of the 1935 California Pacific International Exposition, is located in the southwest portion of Balboa Park. The existing roof was renovated in 1978 because of damage done by a fire earlier that year. The existing roof is now in need of re-construction. The current project provides for the installation of new roofing over the existing dilapidated roof. A thorough evaluation of the existing roofing condition has shown that additional funding will be required to address the unforeseen deficiencies. This transfer of funds is therefore needed to address all areas of required work to complete the project. The current funding for this project is \$310,000 from State Park Bond 40 and \$30,000 from Regional Parks Infrastructure Fund. With this transfer of funds, the total CIP budget will be \$425,000. This project is anticipated to start construction in January 2005.

Funding needed for this transfer is available in CIP-22-950.0, North Crown Point Storm Drain. This additional funding became available as a result of a significant decrease in project scope. Since the condition of this storm drain was found to pose an immediate hazard to the citizenry, a quick remediation work seemed most appropriate. A General Requirement Contractor performed the needed work. This quick action has provided supplemental funding remaining in this CIP project.

**FISCAL IMPACT:**

Funding needed for this transfer is available in CIP-22-950.0, North Crown Point Storm Drain.

Herring/Oppenheim/AP



Aud. Cert. 2500296.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:39 p.m. – 3:42 p.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-nay, Inzunza-not present, Mayor Murphy-yea.

- \* ITEM-107: Amendment to the Memorandum of Understanding with Francis Parker School for Additional Consultant and Contractor Costs for Camp Kearny Mesa Burn Site.

(Linda Vista Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-280) ADOPTED AS RESOLUTION R-299746

Authorizing the City Manager to execute an amendment to the Memorandum of Understanding with Francis Parker School, for additional consultant and contractor costs associated with assessing and remediating the Camp Kearny Mesa burn site ash, from \$250,000 to an amount not to exceed \$310,000, under the terms and conditions set forth in the First Amendment;

Authorizing the expenditure of an amount not to exceed \$60,000 from Fund No. 30244, CIP-32-010.0, Annual Allocation – Unclassified Disposal Site Closure, to provide funds for the above First Amendment.

**CITY MANAGER SUPPORTING INFORMATION:**

According to a 1939 Report from the City Planning Commission to the City Council on "Dumping of Trash and Refuse within the City," the City of San Diego owned and operated the Kearny Mesa Burn dump between 1934 to 1939. This burn site is located on the now developed site of Francis Parker School along the easterly portion of the existing athletic field, and on the slopes adjacent to North Rim Court. The burn ash material is classified as a California hazardous waste due to the elevated concentrations of metals, in particular lead. Consequently, the site and the burn ash material are regulated by both the State Department of Toxic Substances Control, the California Integrated Waste Management Board, and the Local Enforcement Agency.

Francis Parker has contracted to have the athletic field reconfigured and an artificial turf installed. A portion of this project will impact the areas of the burn ash material. Environmental Services Department staff has been working with Francis Parker School management, local regulatory agencies, and the consultants and contractors to ensure all appropriate measures are being taken to address the burn ash material.

The City of San Diego executed a Memorandum of Understanding with Francis Parker School dated June 29, 2004, (Document No. C-12737) to reimburse Francis Parker for the cost of a contractor and consultants associated with properly assessing, remediating, transporting, and disposal of burn ash material with the area of the project. The maximum amount of the reimbursement was limited to \$250,000.

During the excavation significantly larger quantities of burn ash were encountered on the school property. The volume of the burn ash material necessary to be removed and transported was in excess of the initial estimate. An additional \$60,000 for a total of \$310,000 will be needed to fully reimburse Francis Parker School for the cost of removing, transporting, and disposing of the burn ash. This action will authorize an additional reimbursement of up to \$60,000 to Francis Parker School for the cost of work associated with the burn ash site.

Funds for this action are available in the Refuse Disposal Enterprise Fund, CIP-32-010.0, Annual Allocation - Unclassified Disposal Site Closure.

Mendes/Heap/DW

Aud. Cert. 2500294.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-108: Agreements with the Port of San Diego and the County of San Diego for the Storm Water Pollution Prevention “Think Blue” Education.

**CITY MANAGER’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-345) ADOPTED AS RESOLUTION R-299747

Authorizing the City Manager to execute agreements with the Port of San Diego and the County of San Diego for storm water education and outreach, under the terms and conditions set forth in the Agreements;

Authorizing the City Auditor and Comptroller to accept and expend funds from the Think Blue Fund 105081 in the amount of \$65,000 upon receipt of fully executed agreements;

Authorizing the City Auditor and Comptroller, upon advice from the administering department to transfer excess funds, if any, to the appropriate reserves.

**CITY MANAGER SUPPORTING INFORMATION:**

The City of San Diego is one of 18 municipal jurisdictions, along with the County of San Diego, Port of San Diego and the Airport Authority, who are jointly regulated by the Municipal Storm Water Permit from the California Regional Water Quality Control Board for the San Diego Region. The Municipal Permit (Order No. 2001-01) calls for specific storm water pollution prevention, abatement, enforcement and education activities by each municipality or co-permitee. In the City of San Diego, all education, outreach and public advocacy to achieve compliance with the Municipal Storm Water Permit are conducted by the "Think Blue" campaign, in the Storm Water Pollution Prevention Division of the Metropolitan Wastewater Department.

Since October 1999, the City of San Diego has successfully conducted "Think Blue" as regional storm water pollution prevention education and outreach campaign. The County of San Diego and the Regional Storm Water co-permittees would like to contribute \$40,000 to Think Blue in Fiscal Year 2005. Also, the Port of San Diego would like to contribute \$25,000 to Think Blue in Fiscal Year 2005. Accepting these monies benefits all parties and furthers the education and outreach efforts to change the polluting behaviors of residents, business, and industry across the region.

**FISCAL IMPACT:**

The City will receive funds in the amount of \$65,000 for the purpose of Storm Water Pollution Prevention education and outreach (Fund 105081).

Mendes/Tulloch/DC

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-109: Agreement with Caltrans for the Rosa Parks Elementary School Safe Routes to School Project.

(City Heights Community Area. District-3.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-248 Cor. Copy 1) ADOPTED AS RESOLUTION R-299748

Authorizing and directing the City Auditor and Comptroller, in accordance with the 2005 Appropriation Ordinance, to amend the Capital Improvements Program budget by adding CIP-62-265.0, Rosa Parks Elementary School- Safe Routes to School Project;

Authorizing the City Manager, or his duly appointed representative, to execute a Program Supplement Agreement, and any other documents necessary to accept State DOT funds from the Safe Routes to School (SR2S) Program, Caltrans Funding Authorization in an amount not to exceed \$430,200, for safety improvements for Rosa Parks Elementary School;

Authorizing the City Auditor and Comptroller to accept and appropriate funds from the California Department of Transportation, Safe Routes to School (SR2S) Program, Caltrans Funding Authorization, in an amount not to exceed \$430,200;

Authorizing the City Auditor and Comptroller, contingent upon receipt of State DOT funds, to amend the Fiscal Year 2005 Capital Improvements Program budget to reflect the receipt of \$430,200 from the California Department of Transportation;

Authorizing the City Auditor and Comptroller to establish a separate interest bearing account for the funds from the California Department of Transportation, Safe Routes to School (SR2S) Program, Caltrans Funding Authorization, in an amount not to exceed \$430,200;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$64,800 within TransNet Fund No. 30300, from CIP-68-017.0, School Traffic

Safety Improvement, to CIP 62-265.0, Rosa Parks Elementary School- Safe Routes to School Project;

Authorizing the expenditure of an amount not to exceed \$495,000 to be expended as follows: \$430,200 from California Department of Transportation under the Safe Routes to School (SR2S) Program, Caltrans Funding Authorization, contingent upon receipt of the fully executed Agreement and funding; and \$64,800 from Fund No. 30300, CIP-62-265.0, Rosa Parks Elementary School- Safe Routes to School Project, solely and exclusively for construction, engineering and related expenses in connection with the Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

**CITY MANAGER SUPPORTING INFORMATION:**

Students of Rosa Parks Elementary School are faced with crossing busy intersections at Chamoune Avenue and Landis Street as well as the intersections along University Avenue and Euclid Avenue in the Rosa Parks attendance boundary. It is an ongoing effort of the community to improve pedestrian safety in the vicinity of all of the community's schools.

On May 5, 2003, the City Heights Area Planning Committee unanimously approved a motion requesting the City of San Diego Planning Department to submit a Safe Routes to School grant to the State of California for the Rosa Parks Elementary School - Safe Routes to School Project. On December 15, 2003, \$430,200 of State DOT funds was approved for the project, under the Safe Routes to School (SR2S) Program.

The purpose of Rosa Parks Elementary School - Safe Routes to School Project is to improve pedestrian safety in the vicinity of the school. The project area includes portions of University Avenue, Euclid Avenue, Chamoune Avenue, Wightman Street, Landis Street, Dwight Street, 44th Street, 45th Street, 46th Street, and Menlo Avenue in the City Heights community of the Mid-City Community Planning Area. This project involves installing school crossing signs, enhancing crosswalks, reconstructing deteriorated sidewalks, and providing outreach and educational materials to parents of school children attending Rosa Parks Elementary School.

**FISCAL IMPACT:**

The total estimated cost of the project is \$495,000. Of this amount, \$430,200 of State DOT funds have been approved for the project, under the Safe Routes to School (SR2S) Program. The required local match fund in the amount of \$64,800 is available from Fund 30300.

Mendes/Boekamp/RL

Aud. Cert. 2500209.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:50 p.m. – 2:53 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

- \* ITEM-110: Accepting Grant Funds from the California State Library Services and Technology Act for the San Diego Public Library.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-356) ADOPTED AS RESOLUTION R-299749

Authorizing the City Manager, or his designee, to accept and expend Library Services and Technology Act grant funds from the California State Library in the amount of \$40,000, for the purposes of acquiring material through the Global Languages Materials Grant;

Authorizing the City Manager, or his designee, to submit all documents, negotiate and execute all agreements necessary, including any amendments, to comply with the grant requirements, and to carry out and administer all obligations, responsibilities, and duties under the grant;

Authorizing the City Auditor and Comptroller to establish a fund for the purpose of handling the accounting to facilitate the process of tracking revenue and expenditures for this project.

**CITY MANAGER SUPPORTING INFORMATION:**

The San Diego Public Library is requesting authorization to accept and expend funding from the California State Library Services and Technology Act, and to establish a fund for the purposes of tracking grant revenue and expenditures for the purchase of non-English language and bilingual materials for adults and children through the Global Languages Materials Grant. The proposed project would allow San Diego Public Library to purchase books and other materials in nine languages, including Arabic, Chinese, Farsi, Japanese, Korean, Russian, Spanish, Tagalog, and Vietnamese. Once purchased and cataloged, the books and other materials will be available to patrons at all 35 City libraries.

**FISCAL IMPACT:**

The materials will be paid for with \$40,000 in grant funding from the California State Library, with in kind matches of salaries from the San Diego Public Library general fund budget.

Herring/Tatar/DLP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-111: Accepting Grant Funds from the California State Library Services and Technology Act for Cultural Crossroads Program.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-359) ADOPTED AS RESOLUTION R-299750

Authorizing the City Manager, or designee, to accept and expend Library Services and Technology Act grant funds from the California State Library in the amount of \$25,000 for the purpose of presenting the community program "Cuenteme un Cuento/Tell Me a Story";

Authorizing the City Manager, or designee, to submit all documents, negotiate and execute all agreements necessary, including any amendments, to comply with the grant requirements, and to carry out and administer all obligations, responsibilities, and duties under the grant;

Authorizing the City Auditor and Comptroller to establish a fund for the purpose of handling the accounting to facilitate the process of tracking revenue and expenditures for this project.

**CITY MANAGER SUPPORTING INFORMATION:**

The San Diego Public Library (SDPL) is requesting authorization to accept and expend funding from the California State Library Services and Technology Act, and to establish a fund for the purposes of tracking grant revenue and expenditures for "Cuenteme un Cuento/Tell Me a Story," part of a statewide pilot program called Cultural Crossroads.

The proposed project would allow San Diego Public Library to present a series of programs at the downtown Central Library, Linda Vista Branch Library, and City Heights Weingart Branch, because these sites attract and serve large Latino communities that are ethnically and culturally rich in diversity. The programs will be offered to residents citywide at no charge. In order to facilitate and promote dialogue and collaboration among this community and the larger San Diego community, SDPL will provide multifaceted programs with its partner: the San Diego Latino Film Festival (SDLFF) under the Media Arts Center San Diego (SDMAC).

The project will take the ancient art of oral history as the base for the project, but update it for the digital age with programs that will include a Latino family literacy video project, a cultural and intergenerational scrap booking program, a bilingual book discussion group, and a film series. The program will be directly appealing to the growing Latino community, and will also give other San Diego residents opportunities to learn about the rich heritage of the Latino culture.

**FISCAL IMPACT:**

The project will be paid for with \$25,000 in grant funding from the California State Library, with in kind matches of salaries from the SDPL general fund budget, and other in kind services provided from the partner agencies.

Herring/Tatar/DLP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-112: Cox-Com, Inc. Technology Fund Expenditure.

(See City Manager Report CMR-04-216.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:



(R-2005-358)                      ADOPTED AS RESOLUTION R-299751

Authorizing the City Manager to execute agreements for the purchase and/or installation of telecommunication capital improvements, equipment and services or to otherwise enable the City to meet the cable-related needs and interest of the City;

Authorizing the City Manager to make expenditures in an amount not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000) from the Cox-Com Technology Capital Grant Fund, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for such expenditure under established fund are on deposit in the City Treasury.

Aud. Cert. 2500276.

FILE LOCATION:                      PURCHASE

COUNCIL ACTION:                      (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

- \* ITEM-113: Grant Application to the State of California Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 Resources Bond for Keiller Neighborhood Park Comfort Station.

(Skyline/Paradise Community Area. District-4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-330)                      ADOPTED AS RESOLUTION R-299752

Authorizing the City Manager to apply to the State of California (SOC) for the Grant for the Project;

Authorizing the City Manager to take all necessary actions to secure the Grant and to negotiate and execute all agreements necessary to comply with the SOC's grant requirements;

Authorizing the City Manager to accept the Grant if it is secured;

Authorizing the City Auditor and Comptroller to establish special interest bearing fund for the Grant;

Authorizing a \$30,000 increase in the Fiscal Year 2005 Capital Improvements Program Budget in CIP-29-592.0, Keiller Neighborhood Park Comfort Station, in Fund No. 79509, Skyline/Paradise Hills Development Impact Fees, for the Project;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$30,000 from CIP-29-592.0, Keiller Neighborhood Park Comfort Station in Fund No. 79509, Skyline/Paradise Hills Development Impact Fees, for the Project;

Authorizing a \$60,000 increase in the Fiscal Year 2005 Capital Improvements Program Budget in CIP-29-592.0, Keiller Neighborhood Park Comfort Station, in Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 Resources Bond for the Project, contingent upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$60,000 from CIP-29-592.0, Keiller Neighborhood Park Comfort Station, Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 Resources Bond, contingent upon receipt of a fully executed grant agreement, for the Project.

**CITY MANAGER SUPPORTING INFORMATION:**

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond "Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 (bond)." Based upon State Department of Finance population figures as of January 1, 2002, the City of San Diego will receive a total of \$11,063,430 on a Per Capita basis from the bond. On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the Per Capita/RZH Per Capita funds to each council district, with a portion of the funding set aside for projects with citywide and regional impact. On February 20, 2004, the City entered into an umbrella contract with the State of California for the 2002 Resources Bond Act Per Capita Grant Program.

The Keiller Neighborhood Park is an existing 4-acre park located in the Community of Skyline/Paradise Hills on the corner of Lisbon Street and Woodrow Avenue. This project

provides for a new comfort station. Partial funding is via a State Grant in the amount of \$147,750. This request is for an additional \$90,000 to fully fund project construction.

**FISCAL IMPACT:**

The total project cost is \$237,750. The additional funding is available in above referenced funding sources in the amount of \$60,000 and Skyline/Paradise Hills Development Impact Fees, in the amount of \$30,000. Funding for maintenance of this new facility has been programmed in the current Fiscal Year.

Herring/Oppenheim/AP

Aud. Cert. 2500327.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-114: Grant Application to the State of California for Construction of Site Amenities at Paradise Hills Community Park.

(Skyline/Paradise Hills Community Area. District-4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-379) ADOPTED AS RESOLUTION R-299753

Authorizing the City Manager, or his representative, to apply to the State of California (SOC) and the Per Capita Roberti-Z'berg-Harris funds (RZH) for the Grants for the Project;

Authorizing the City Manager, or his representative, to take all necessary actions to secure the Grants and to negotiate and execute all agreements necessary to comply with the SOC's and RZH's grant requirements;

Authorizing the City Manager to accept the Grants if they are secured;

Authorizing the City Auditor and Comptroller to establish special interest bearing fund for the Grants;

Authorizing, upon receipt of a fully executed grant agreement, an increase of \$830,300 to the Fiscal Year 2005 Capital Improvement Program Budget, CIP-29-432.0, Paradise Hills Community Park, in Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 Resources Bond;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$830,300 from CIP-29-432.0, Paradise Hills Community Park, Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 Resources Bond, upon receipt of a fully executed grant agreement;

Authorizing the City Manager to award the Project contract to HMS Construction in an amount not to exceed \$852,905, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$852,905 from CIP-29-432.0, Paradise Hills Community Park, for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to return excess budgeted funds to the appropriate reserves.

**CITY MANAGER SUPPORTING INFORMATION:**

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond "Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 (Bond)." Based upon State Department of Finance population figures as of January 1, 2002, the City of San Diego will receive a total of \$11,063,430 on a Per Capita basis from the bond. On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the Per Capita/RZH Per Capita funds to each council district, with a portion of the funding set aside for projects with citywide and regional impact. On February 20, 2004, the City entered into an umbrella contract with the State of California for the 2002 Resources Bond Act Per Capita Grant Program.

The Paradise Hills Community Park is an existing 40.8 acre park located in the Community of Skyline/Paradise Hills at 6610 Potomac Street. The existing park includes a recreation center,

parking lot, basketball courts, comfort station and play area. This project provides for a new skate park, comfort station, parking lot surface, fitness course and other site amenities.

On September 9, 2004, four bids were received. HMS Construction was the successful bidder with a bid price two percent under the engineer's estimate. This action authorizes a City Manager to enter into a contract with HMS Construction in the amount of \$852,905 and authorizes the City Manager to apply for: 1) \$245,679, a portion of the 2002 Resources Bond Per Capita funding allocated to Council District 4; and 2) \$584,621 of the 2002 Resources Bond Per Capita Roberti-Z'berg-Harris program allocated to Council District 4. This is the remaining funding required for construction.

**FISCAL IMPACT:**

The total project cost is \$1,154,900. The additional funding of \$830,300 is available in the above referenced funding sources. Funding for maintenance of this new facility has been programmed in the current Fiscal Year.

Herring/Oppenheim/AP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-115: Grant Application to the California Cultural and Historical Endowment for the Restoration of the Historic Old Mission Dam Located in Mission Trails Regional Park.

(Tierrasanta Community Area. District-7.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-378) ADOPTED AS RESOLUTION R-299754

Authorizing the City Manager, or his representative, to apply to the California Cultural and Historical Endowment Program (CCHE), for the Grant for the restoration of the historic Old Mission Dam located in Mission Trails Regional Park, preserving the dam by removing the accumulation of silt and damaging

vegetation from behind the dam, and repairing damage to the northern end of the dam (Project);

Authorizing the City Manager, or his representative, to take all necessary actions to secure the Grant and to negotiate and execute all agreements necessary to comply with the CCHE's grant requirements;

Authorizing the City Manager to accept the Grant, if it is secured;

Authorizing the City Auditor and Comptroller to establish special interest-bearing fund for the Grant;

Certifying that the Council has reviewed, understands, and agrees to the general provisions contained in the contract shown in the CCHE procedural guide, including that the City has, or will have, sufficient funds to operate and maintain the Project.

**CITY MANAGER SUPPORTING INFORMATION:**

The California State Library administers the California Cultural and Historical Endowment Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002. The intent of this program is to provide grant funding for the acquisition, development, preservation, and interpretation of building structures, sites, places, and artifacts that preserve and demonstrate culturally significant aspects of California. This action authorizes the City Manager to submit a competitive grant proposal to the California State Library for the restoration of the historic Old Mission Dam located in Mission Trails Regional Park. Old Mission Dam is a registered National Historic Landmark visited by hundreds of school students each year, as well as visitors to the region, San Diego residents, and regular park users. The accumulation of silt and vegetation growth is jeopardizing the structural integrity of the dam.

This grant will preserve the dam by removing the accumulation of silt and damaging vegetation from behind the dam, and repairing damage to the northern end of the dam.

**FISCAL IMPACT:**

If funded, the grant will partially fund the preservation of the Old Mission Dam. A future Council Action will request matching funds from the City's allocation of the 2002 California Resources Bond Per Capita grant.

Herring/Oppenheim/AP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

- \* ITEM-116: Grant Application to the U.S. Department of Justice, Bureau of Justice Assistance (JBA) for the City of San Diego Police Department Fiscal Year 2004/2005 Local Law Enforcement Block Grant (LLEBG).

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-383) ADOPTED AS RESOLUTION R-299755

Authorizing the Chief of Police, on behalf of the City Manager, to apply for, accept and expend these block grant funds for police automation, vehicle, safety, forensic, training, and miscellaneous equipment, maintenance and resources which will contribute to the efficiency and safety of law enforcement and crime prevention services throughout San Diego, as described in the Grant Application Form;

Authorizing the Chief of Police to execute all aspects of program operation, including any amendments, extensions, or renewals, for a period of up to five years, provided funding is made available by the U.S. Department of Justice, and to certify that the City will comply with all applicable statutory or regulatory requirements related to said program;

Authorizing the City Auditor and Comptroller, and the City Treasurer to transfer \$114,497 from these grant funds to the County of San Diego, to be used for the purpose of Drug Courts and/or other purposes;

Authorizing the Chief of Police to commit the required matching funds in compliance with the requirements of the Local Law Enforcement Block Grant program;

Declaring that any resources received hereunder shall not be used to supplant expenditures controlled by this body.

**CITY MANAGER SUPPORTING INFORMATION:**

The Local Law Enforcement Block Grant (LLEBG) is appropriated from funding authorized by the Crime Control and Law Enforcement Act of 1994, and is administered by the U.S. Department of Justice, Bureau of Justice Assistance. Grant amounts are determined based on jurisdiction population and crime index. There is no application other than the one-page form, which is submitted electronically. The grant does not require a specific program, timeline, evaluation or budget.

SDPD has agreed to a County of San Diego request to transfer \$114,497 of the grant funds to the County to assist in funding the Drug Court program. The balance of funds, including the matching funds, will be used for police automation, vehicle, safety, forensic, training, and miscellaneous equipment, maintenance and resources as needs are identified. Expenditures will contribute to the safety and efficiency of law enforcement and crime prevention services throughout San Diego.

By law, these grant funds must be used to supplement, and may not be used to supplant other funds or expenditures controlled by the City.

NOTE: The one-page form, which is submitted electronically, is the entire application for this grant.

**FISCAL IMPACT:**

Funded by the Crime Act of 1994, and administered by the U.S. Department of Justice, Bureau of Justice Assistance, this year's grant provides federal funds of \$572,484. It requires a cash match of \$63,609. Funds for this match are included in, and will be met from, the Police Department's FY 2004/2005 budget. The City will transfer \$114,497 of this grant to the County to assist in funding Drug Courts. Remaining funds will be used for a variety of law enforcement purposes as needs are identified. There are no requirements for ongoing grant-related programs or expenses after the grant is terminated or expended.

Ewell/Lansdowne/DJW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-117: Sunset Cliffs Streetlights Circuit Upgrade.



(Peninsula Community Area. District-2.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-331)                      ADOPTED AS RESOLUTION R-299756

Amending the Fiscal Year 2005 Capital Improvements Program Budget in CIP-52-293.0, Street Lights – Citywide, Fund No. 104402, by increasing the budget amount by \$460,000;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$460,000 from Street Division Operating Fund, Fund 10440, to Street Division – Capital Improvement Fund, Fund 104402, to Fund CIP-52-293.0, Street Lights – Citywide;

Authorizing the appropriation and expenditure of an amount not to exceed \$460,000 from CIP-52-293.0, Street Lights – Citywide, Fund No. 104402, solely and exclusively, for the purpose of providing funds for Sunset Cliffs Streetlights Circuit Upgrade, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

**CITY MANAGER SUPPORTING INFORMATION:**

There are 37 electrical street light circuits throughout the City that were installed around the 1950's. These "series style" circuits are badly deteriorated and are constantly requiring repair. This project will convert one of these circuits, which serves 46 streetlights in the Peninsula Community Planning Area. It will upgrade 19,000 lineal feet of underground wiring which will include a new trench, conduit, cable, pull boxes, and street light fixtures. It is no longer economically feasible to continue to use maintenance funds to temporarily repair a circuit that must be upgraded. Funding for this project was anticipated in prior years and, therefore, will have a minimal impact on maintenance activities scheduled to be performed in the current fiscal year.

**FISCAL IMPACT:**

The total estimated project cost is \$460,000. The General Services Department Street Division is providing \$460,000 as a transfer from their operating budget, Fund 104402, Job Order 008600 for this project.

Mendes/Boekamp/DZ

Aud. Cert. 2500262.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-118: Establishing a Two-Hour Unmetered Parking Zone on Via De La Valle.

(Via De La Valle Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-319) ADOPTED AS RESOLUTION R-299757

Establishing a two-hour unmetered time limit parking zone, effective between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, with Sundays and certain holidays excepted, on the north side of Via De La Valle between I-5 northbound on-ramp and San Andres Drive, pursuant to authority conferred by and in accordance with the provisions of Section 86.04 of the San Diego Municipal Code;

Authorizing the installation of the necessary signs and markings to be made on said street, and the regulations hereinabove imposed shall become effective upon the installation of such signs.

**CITY MANAGER SUPPORTING INFORMATION:**

This action will authorize the City Manager to establish a two-hour time limit unmetered parking zone on the north side of Via De La Valle between I-5 northbound on-ramp and San Andres Drive. The two-hour time limit zone will be effective from 8:00 a.m. to 6:00 p.m., Monday

through Saturday, with Sundays and certain holidays excepted. This action is in accordance with Municipal Code Section 86.04 and Council Policy 200-04, Installation or Removal of Time Limit Parking Zones and Parking Meter Zones.

The land use adjacent to this segment of Via De La Valle is commercial (strip mall) and would benefit from an increased turnover in parking. Staff has conducted a parking duration study, which revealed a high level of occupancy and a low turnover, thus satisfying the requirements for time limit parking.

The property manager of the fronting strip mall submitted a petition in support of time limit parking at this location. In addition, the Carmel Valley Community Planning Board is in support of this action.

**FISCAL IMPACT:**

\$900. Funds are available in the Street Division for this purpose.

Mendes/Boekamp/DVW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-119: Appointment to the City Public Utilities Advisory Commission.

(See memorandum from Mayor Murphy dated 9/30/2004, with resume attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-384) ADOPTED AS RESOLUTION R-299758

Council confirmation of the appointment by the Mayor of Ed Lehman to serve as a member of the City Public Utilities Advisory Commission, for a term ending January 1, 2008, replacing Scott Chadwick, who has resigned.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTION TO CONFIRM THE APPOINTMENT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-120: Cancellation of the City Council Meeting of Tuesday, November 16, 2004.

(See memorandum from Charles G. Abdelnour dated 10/1/2004.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-381) ADOPTED AS RESOLUTION R-299759

Amending the schedule of meetings for the City Council and Standing Committees of the City Council for the period January 1, 2004, through December 31, 2004, to cancel the regularly scheduled Council Meeting of Tuesday, November 16, 2004, due to the Special Election in Council District 4 being held on this date.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-121: Cancellation of the October 13, 2004, Rules, Finance & Intergovernmental Relations Committee Meeting.

(See memorandum from Mayor Murphy dated 9/23/2004.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-382) ADOPTED AS RESOLUTION R-299760

Amending the schedule of meetings for the City Council and Standing Committees of the City Council for the period January 1, 2004, through December 31, 2004, to cancel the Rules, Finance & Intergovernmental Relations Committee meeting of Wednesday, October 13, 2004, at 9:00 a.m.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-122: Expressive Arts Week.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-362) ADOPTED AS RESOLUTION R-299761

Recognizing the significant contributions of the students and faculty of the Expressive Arts Institute of San Diego to the citizens of San Diego;

Proclaiming the week of October 18-24, 2004, to be the inaugural "Expressive Arts Week" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-123: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-273)            ADOPTED AS RESOLUTION R-299762

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION:            GEN'L-State of Emergency Due to Economic  
Circumstances in the San Diego-Tijuana Border Region

COUNCIL ACTION:            (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-124: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2004-1250)            ADOPTED AS RESOLUTION R-299763

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION:            GEN'L-State of Emergency Regarding the Discharge of  
Raw Sewage from Tijuana, Mexico

COUNCIL ACTION:            (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

- \* ITEM-125: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-110)                      FAILED DUE TO THE LACK OF FIVE AFFIRMATIVE VOTES

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

**CITY MANAGER SUPPORTING INFORMATION:**

California Health and Safety Code Section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION:                      GEN'L-State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION:                      (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Failed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-not present, Mayor Murphy-nay.

- \* ITEM-126: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2005-186)                      ADOPTED AS RESOLUTION R-299765

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION:                      GEN'L-State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION:                      (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-150: Two actions related to Statewide Ballot Proposition 1A and Proposition 69 for the November 2, 2004, Election.

(See memorandum from Andrew Poat dated 9/30/2004.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2005-386)                      ADOPTED AS RESOLUTION R-299766

Declaring that the City Council supports passage of Proposition 69.

Subitem-B: (R-2005-387)                      ADOPTED AS RESOLUTION R-299767

Expressing strong support for Proposition 1A, the statewide ballot initiative that will prevent the State from further taking local government revenues;

Directing the City Clerk to forward a copy of this resolution to Yes on 1A – Californians to Protect Local Taxpayers and Public Safety.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S RECOMMENDATION:**



On 9/29/2004, Rules voted 4 to 0 to approve the Governmental Relations Department recommendation to support Proposition 1A and Proposition 69. (Councilmembers Peters, Atkins, Madaffer, and Mayor Murphy voted yea. Councilmember Maienschein not present.)

FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Time duration: 3:46 p.m. – 3:48 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea (nay on Subitem A supporting the passage of Proposition 69), Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-200: Adding and Amending Sections to the San Diego Municipal Code All Relating to the City's Financial Reporting and Disclosure.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced as amended on 9/28/2004, Item S500. (Council voted 8-0. Councilmember District 4-vacant):

(O-2005-37 Rev. Interlineation)      ADOPTED AS ORDINANCE O-19320 (New Series)

Amending the San Diego Municipal Code by amending Chapter 2, Article 6 by adding New Division 17, titled "Financial Reporting Oversight Board" and adding New Sections 26.1701, 26.1702, 26.1703, 26.1704, 26.1705, and 26.1706; amending Chapter 2, Article 2, Division 3 by adding New Sections 22.0302, 22.0303, and 22.0304; amending Chapter 2, Article 2 by adding New Division 41, titled "Securities Disclosure" and adding New Sections 22.4101, 22.4102, 22.4103, 22.4104, 22.4105, 22.4106, 22.4107, 22.4108, 22.4109, 22.4110, 22.4111, and 22.4112; amending Chapter 2, Article 4, Division 9 by amending Section 24.0911; and amending Chapter 2, Article 2, Division 7, by adding New Sections 22.0708 and 22.0709; all relating to the City's Financial Reporting and Disclosure.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:25 p.m. – 3:27 p.m.)

MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-

yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-201: Confirmation of Agreement with Orrick, Herrington and Sutcliffe for General Legal Services.

(Continued from the meetings of September 13, 2004, Item S407 and September 27, 2004, Item 200; last continued at the request of Councilmember Frye for City Attorney to modify language of Agreements with Orrick, Herrington and Sutcliffe.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-261)            ADOPTED AS RESOLUTION R-299768

Authorizing the City Manager to execute the Confirmation of Agreement with Orrick, Herrington & Sutcliffe, for General Legal Services, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$470,216.75 (\$31,549.46 from Fund 10253, Dept. 10253, Org. 2001, Acct. 4151; \$171,005.99 from Fund 102214, Dept. 102214, Org. 250, Acct. 4151; \$31,549.46 from Fund 102212, Dept. 102212, Org. 100, Acct. 4151; \$31,549.46 from Fund 100, Dept. 601, Org. 3300, Acct. 4151; \$ 31,549.46 from Fund 10330, Dept. 930, Org. 2200, Acct. 4151; \$31,549.46 from Fund 10226, Dept. 918, Acct. 4151; \$31,549.46 from Fund 102240, Dept. 1024, Org. 1854, Acct. 4151; \$94,542.75 from Fund 72016, Dept. 92016, Acct. 4151; \$15,371.25 from Fund 41500, Dept. 760, Org. 163, JO 4141, Acct. 001015), for the purpose of providing funds for the above referenced Project.

**SUPPORTING INFORMATION:**

City previously retained the services of Orrick to render legal advice and assist the City with general legal services pertaining to disclosure issues for City bond financings.

As directed by the City Attorney's Office, Orrick provided the City with the following general legal services related to such financings: (1) prepared voluntary disclosure for the General Fund; (2) prepared Rule 15c2-12 annual reports for the General Fund; (3) prepared voluntary disclosure for the Wastewater System of the City [Wastewater System]; (4) prepared a Rule 15c2-12 annual report for the Wastewater System; (5) prepared a Rule 15c2-12 annual report for the Water Utility System of the City; and (6) substituted amounts on deposit in the reserve fund established

under the Indenture related to the Ballpark Project with debt service reserve credit facility. Payments for these services are usually funded through bond proceeds, however, the issuance of bonds related to the Firm's services has been delayed and it is appropriate to provide for alternative funding. Funds are available from various project accounts related to the Firm's services.

**FISCAL IMPACT:**

Expenditure of an amount not to exceed \$470,216.75 as follows: (\$31,549.46 from Fund 10253, Dept. 10253, Org. 2001, Acct. 4151; \$171,005.99 from Fund 102214, Dept. 102214, Org. 250, Acct. 4151; \$31,549.46 from Fund 102212, Dept. 102212, Org. 100, Acct. 4151; \$31,549.46 from Fund 100, Dept. 601, Org. 3300, Acct. 4151; \$31,549.46 from Fund 10330, Dept. 930, Org. 2200, Acct. 4151; \$31,549.46 from Fund 10226, Dept. 918, Acct. 4151; \$31,549.46 from Fund 102240, Dept. 1024, Org. 1854, Acct. 4151; \$94,542.75 from Fund 72016, Dept. 92016, Acct. 4151; \$15,371.25 from Fund 41500, Dept. 760, Org. 163, JO 4141, Acct. 001015).

Noone/KS

Aud. Cert. 2500245.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:27 p.m. – 3:36 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S400: International City/County Management Association Days.

**DEPUTY MAYOR ATKINS', COUNCILMEMBER FRYE'S, AND  
COUNCILMEMBER INZUNZA'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-380) ADOPTED AS RESOLUTION R-299769

Commending International City/County Management Association (ICMA) for its continuing commitment to excellence in local government;

Proclaiming October 17<sup>th</sup> – 20<sup>th</sup>, 2004, to be "International City/County Management Association Days" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:29 p.m. – 2:34 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S401: White Cane Safety Day.

**COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-375) ADOPTED AS RESOLUTION R-299770

Proclaiming October 11, 2004, to be "White Cane Safety Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:34 p.m. – 2:44 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-S402: Excusing Councilmember Inzunza from Attending the City Council Meetings of October 11 and 12, 2004, and the Land Use and Housing Committee Meeting of October 13, 2004.

**COUNCILMEMBER INZUNZA'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-394) ADOPTED AS RESOLUTION R-299771

Excusing Councilmember Ralph Inzunza from attending the following regularly scheduled meetings due to the birth of his child:

1. City Council meetings of October 11 and 12, 2004, and
2. Land Use and Housing Committee meeting on October 13, 2004.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S403: Amendment to Park and Recreation Department Fee Schedule.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-374) ADOPTED AS RESOLUTION R-299772

Amending the Swimming Facility Admission fee to eliminate the requirement that "All patrons entering the facility during recreational/open swim times are required to pay the facility admission fee," which eliminates a requirement for persons who do not go into the water, but who accompany others who do (such as a parent/guardian accompanying a child) from having to pay to enter a pool facility during "open swim." All persons entering the facility to go into the water would still be required to pay the Swimming Facility Admission fee;

Amending the Swimming Pool Rentals, Exclusive Use and Non-Exclusive Use rates to allow all San Diego youth aquatic teams, from all public and private agencies, to pay the same Hourly Rental fees as are currently charged to Public Schools and Public Colleges. These fees, for non-City teams, other than Public Schools and Public Colleges, were approved to be raised by the Council on June 28, 2004, and the fees for Public Schools and Public Colleges were kept at their same rates as the previous year by the City Council.

**CITY MANAGER SUPPORTING INFORMATION:**

In the Fiscal Year 2005 Budget, the Mayor and Council approved a new Fee Schedule. Among those fees approved by the Council were increases in fees charged by the Park and Recreation Department for various programs in the City Aquatics Program. Of those fees approved by the

Council for the Aquatics Program, the Swimming Facility Admission fee went into effect on July 1, 2004, and Swimming Pool Rentals fee went into effect on September 1, 2004.

Since the two fees identified above went into effect, much concern has been voiced and/or expressed in writing by patrons of City swimming pools about the impacts those fee increases have had and/or can be expected to have on the ability of San Diego citizens to patronize the City swimming pools.

Since the summer of 2000, all pool patrons entering the swimming facility during open swim have been required to pay the Swimming Facility Admission fee, which has been \$1.50 for youth/seniors and \$2.00 for adults; including those not going into the water, but accompanying youth, etc. On July 1, 2004, the fee for adults was raised from \$2.00 to \$5.00; at that time adult pool patrons not entering the water began to express their displeasure with having to pay the fee and the complaints are continuing. The Swimming Pool Rentals fee increased the costs for youth teams, that are not City teams or teams from a Public School or Public College, very significantly. The exclusive use rate increased from \$44/hour to \$195/hour and the non-exclusive rate increased similarly. Groups that fall into this category of renters and that have rented City pools in past years have voiced serious concerns about their abilities to serve their youth members and some have begun to look for cheaper aquatic facilities; others have indicated they won't be able to continue operating.

In response to the recent concerns received about the fee increases in the Aquatics Program, the Mayor and Members of the Council directed the City Manager to review aquatic facility fees and propose measures that might mitigate some of the concerns of the citizens.

In response to this direction from the Mayor and Councilmembers, the following changes are recommended:

1. Amend the Swimming Facility Admission fee to eliminate the requirement that "All patrons entering the facility during recreational/open swim times are required to pay the facility admission fee." This would eliminate a requirement for persons who don't go into the water, but who accompany others who do (such as a parent/guardian accompanying a child) from having to pay to enter a pool facility during "open swim." All persons entering the facility to go into the water would still be required to pay the Swimming Facility Admission fee.
2. Amend the Swimming Pool Rentals, Exclusive Use and Non-Exclusive Use rates to allow all San Diego youth aquatic teams, from all agencies public and private, to pay the same Hourly Rental fees as are currently charged to Public Schools and Public Colleges. These fees, for non-City teams, other than Public Schools and Public Colleges, were approved to be raised by the Council on June 28, 2004; the fees for Public Schools and Public Colleges were kept at their same rates as the previous year by the City Council.

**FISCAL IMPACT:**

The Park & Recreation Department revenues for Fiscal Year 2005 will be \$115,000 less than budgeted. This revenue loss will be compensated for through other major revenue accounts exceeding budgeted amounts.

Herring/Oppenheim/BD

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:55 p.m. – 3:13 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S404: Two actions related to Carmel Valley Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2005.

(See City Manager Report CMR-04-212; Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2005 Draft. Carmel Valley Community Area. District-1.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2005-389) CONTINUED TO MONDAY, NOVEMBER 8, 2004

Approving the document entitled "Carmel Valley Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2005."

Subitem-B: (R-2005-390) CONTINUED TO MONDAY, NOVEMBER 8, 2004

Resolution of Intention to designate two areas of benefit in Carmel Valley and setting the time and place for holding a public hearing thereon.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 9/29/2004, LU&H voted 4-0 to approve the City Manager's recommendation. (Councilmembers Peters, Zucchet, Frye, and Inzunza voted yea. District 4-vacant.)

FILE LOCATION: SUBITEMS A & B: STRT-FB8 (33)

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:44 p.m.)

MOTION BY PETERS TO CONTINUE THIS ITEM TO MONDAY, NOVEMBER 8, 2004 FOR FURTHER REVIEW. Second by Frye. Passed by the following vote:  
Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-S405: Additional Funding and Second Amendment to Consultant Agreement with Earth Tech for the El Camino Real Bridge Replacement and Road Widening Project.

(Carmel Valley, NCFUA Subarea II Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinance in Subitem A; and adopt the resolution in Subitem B:

Subitem-A: (O-2005-49) INTRODUCED, TO BE ADOPTED ON MONDAY,  
NOVEMBER 8, 2004

Introduction of an Ordinance authorizing the City Manager to execute the Second Amendment to the Agreement with Earth Tech for professional services for El Camino Real - San Dieguito Road to Via De La Valle, in an amount not to exceed \$275,394, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the expenditure of an amount not to exceed \$275,394 from CIP-52-479.0, El Camino Real - San Dieguito Road to Via De La Valle, Fund 38728, for the purpose of executing the Second Amendment to the Agreement with Earth Tech, provided that the City Auditor and Comptroller first furnishes a certificate certifying that funds are available;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to return excess funds, if any, to the appropriate reserves.

Subitem-B: (R-2005-393) ADOPTED AS RESOLUTION R-299773



Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2005 Capital Improvement Budget for CIP-52-479.0, El Camino Real - San Dieguito Road to Via De La Valle, by \$1,002,400, Fund 38728;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend a total of \$1,700,000 of Highway Bridge Rehabilitation and Replacement (HBRR) Funds, Fund 38728, for CIP-52-479.0;

Authorizing the City Manager to execute all program supplements, amendments, and other grant related documentation necessary for obtaining HBRR funds for CIP-52-479.0, El Camino Real - San Dieguito Road to Via De La Valle;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend an amount not to exceed \$500,000 of private contributions from Black Mountain Ranch, LLC, Fund 63022, for CIP-52-479.0, provided that the City Auditor and Comptroller first furnishes a certificate certifying that funds necessary for expenditures are on deposit with the City Treasury;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2005 Capital Improvement Budget for CIP-52-479.0, El Camino Real – San Dieguito Road to Via De La Valle, by \$500,000 contingent upon receipt of the said funds;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

**CITY MANAGER’S SUPPORTING INFORMATION:**

The El Camino Real project consists of replacing the structurally deficient bridge over the San Dieguito River along with roadway improvements on El Camino Real (Via de la Valle to San Dieguito Road) and Via de la Valle (between the northern and southern segments of El Camino Real). The project also includes curbs, gutters, sidewalks, bike lanes, equestrian trails, landscaping, traffic signal, and other related improvements.

When Earth Tech was initially selected to perform the design, insufficient funds were available to allow for the entire cost of design effort, due to the phased authorization nature of the grant. As a result, the design was divided into phases. On March 31, 1998, pursuant to Resolution 289908, the City Council authorized the execution of the original contract with Earth Tech in the amount of \$411,817 to provide initial environmental studies and conceptual design work for the El Camino Real Bridge Replacement and Road Widening. On August 6, 2001, pursuant to Resolution 295346, the City Council authorized the execution of a contract in the amount of \$450,684 with Earth Tech to prepare a final environmental report and continue conceptual design for the El Camino Real Bridge Replacement and Road Widening. Due to the changes in

environmental document scope and process, the Second Amendment is being processed for additional development of the environmental report and conceptual design. This additional work includes a major revision to the project alternatives. After this phase of the project is completed and the environmental document approved, it is anticipated that a new contract will be solicited to provide the final design and construction documents for the project.

On August 18, 2004, Caltrans increased the grant amount to reflect the progress of the environmental document and an increase in scope of the grant eligibility requested by City staff. For this, Caltrans has issued an Authorization to Proceed (E76) for remaining preliminary engineering and environmental document work. In addition, Black Mountain Ranch, LLC has offered to contribute, in advance of their obligation, additional funding as necessary to continue the development of the project. Together, these increases will provide the funds necessary for this action and represent a significant increase in the funding available to this project.

**FISCAL IMPACT:**

The cost of this Second Amendment is \$275,394, which includes \$16,100 for additional services. Funding for all costs of this amendment are available from the additional grant funding authorized by Caltrans (E76) and will be fully reimbursed, subject to the grant conditions.

Mendes/Boekamp/Zoumaras

Aud. Cert. 2500341.

FILE LOCATION: SUBITEM A: NONE; SUBITEM B: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE AND ADOPT THE RESOLUTION. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-S406: Children's Hospital and Health Center Day.

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-397) ADOPTED AS RESOLUTION R-299774

Recognizing Children's Hospital and Health Center for fifty years of outstanding service to the people of San Diego;

Proclaiming November 6, 2004, to be "Children's Hospital and Health Center Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-S407: Additional Funding and Award of Public Works Contract to Heffler Company, Inc., for Lisbon Street Roadway and Utility Undergrounding Improvements.

(Skyline/Paradise Hills Community Area. District-4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-395) ADOPTED AS RESOLUTION R-299775

Authorizing the City Manager to award the Project contract to Heffler Company, Inc., in an amount not to exceed \$2,058,594, consisting of \$887,678 from CIP-52-654.0, Lisbon Street, Fund 30300 – TransNet, and \$1,170,916 from CIP-37-028.0, Annual Allocation Undergrounding City Utilities, Fund 30101 – Undergrounding Surcharge, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$272,102 from TransNet Fund 30300, CIP-52-409.0, 43<sup>rd</sup> Street and Logan/National Avenue Intersection to CIP-52-654.0, Lisbon – Imperial Avenue to 217 feet E/O 71<sup>st</sup> Street;

Authorizing an additional expenditure of an amount not to exceed \$272,102 from TransNet Fund 30300, CIP-52-409.0, 43<sup>rd</sup> Street and Logan/National Avenue Intersection to CIP-52-654.0, Lisbon – Imperial Avenue to 217 feet E/O 71<sup>st</sup> Street, solely and exclusively, for the purpose of providing funds for the Project

and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

**CITY MANAGER SUPPORTING INFORMATION:**

The Lisbon - Imperial Avenue to 217 feet E/O 71<sup>st</sup> Street project includes widening Lisbon Street from Imperial Avenue to 71<sup>st</sup> Street to a modified 3 lane collector, which will provide additional traffic safety and capacity. The project also includes drainage improvements, sidewalk, curb, gutter, driveways, bus access, retaining walls, and curb ramps. In conjunction with the roadway improvements, this project will provide for the undergrounding of the overhead utilities in the area. This coordination will reduce future disturbance of the new roadway. The utility undergrounding work is part of the surcharge fee agreement in accordance with California Public Utilities Commission Rules and was approved for use with the Lisbon Street Undergrounding District as part of a recent Council action.

As approved by Council (R298846), the construction contract was advertised in May 2004 with funding for the base bid and basic utility undergrounding. After some property acquisition delays, bids were opened on July 28, 2004. The lowest responsible bid was submitted by Heffler Company, Inc., which was 31% above the engineer's estimate for the base bid. After an in-depth review of the bid information, it is not anticipated that rejecting and re-bidding the contract would result in significantly lower bid prices. In addition, since the work contained in bid alternatives "B" through "F" includes such critical items as complete utility undergrounding, street light replacement, and transit related improvements, it is recommended that these be awarded as well. However, since the existing roadway areas adjacent to the proposed widening portions have been determined to be structurally adequate, the work for bid alternative "A" (complete resurfacing) is not considered critical to the project. Other contract provisions will provide for a slurry seal treatment of these areas in lieu of complete resurfacing.

**FISCAL IMPACT:**

Using the bid received, the total project cost with the inclusion of Additive Alternates "B", "C", "D", "E", and "F" is \$2,851,591 with \$1,381,916 of this amount being for utility undergrounding work and \$1,469,675 being for the roadway portion of the project. Since \$2,273,171 of the total has been previously authorized, \$578,420 of additional funding is needed to award the contract with these bid alternatives. To cover this shortfall, \$306,318 is available from Utility Surcharge funds, CIP-37-028.0 (Undergrounding of City Utilities) and \$272,102 is available from TransNet funds, CIP-52-409.0, 43<sup>rd</sup> Street and Logan/National Avenue Intersection.

Mendes/Boekamp/RL

Aud. Cert. 2500351.

FILE LOCATION: CONT-Heffler Company, Inc.

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, District 4-vacant, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

\* ITEM-S408: Black Mountain Ranch Unit No. 9A Final Map Including Building Restricted Easement and Road Survey Vacations.

(Black Mountain Ranch Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-396)                      TRAILED TO TUESDAY, OCTOBER 12, 2004

Approving map of Black Mountain Ranch Unit No. 9A.

**CITY MANAGER SUPPORTING INFORMATION:**

This 56.776-acre map proposes 31 lots consisting of 22 lots for residential development, 1 lot for general utilities and access, 3 open space lots and 6 building restricted lots. It is located in the Black Mountain Ranch Community Plan area, northeasterly of San Dieguito Road and Camino Ruiz in Council District 1. This map requires City Council approval because building restricted easements and road surveys are being vacated on the map.

This property has been previously subdivided. In connection with the original map of Black Mountain Ranch Unit No. 9, public improvements and landscaping, as shown on Engineering Drawing Nos. 30589-D and 31086-D have been approved, and a Subdivision Improvement Agreement entered into and bonds posted in the amount of \$613,846 to assure the work. During the final stages of development of the Black Mountain Ranch project, the two additional lots within Black Mountain Ranch Unit No. 9 were requested. A Substantial Conformance Review has approved the addition of these two lots, which requires the vacation of a portion of a previously granted building restricted easement. Staff has determined that this revised project is consistent with all previously approved permits, and the City Engineer has approved the map. In

connection with this map, 3 open space lots totaling approximately 16.574 acres are being deeded to the City at no cost.

**FISCAL IMPACT:**

None.

Loveland/Halbert/GRB

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:38 p.m. – 3:38 p.m.)

**NON-DOCKET ITEMS:**

None.

**ADJOURNMENT:**

The meeting was adjourned by Mayor Murphy at 3:55 p.m. in honor of the memory of:

Sydney Ethridge and John Stotts as requested by Deputy Mayor Atkins.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:50 p.m. – 3:55 p.m.)